

1 Ramon Rossi Lopez
2 rlopez@lopezmchugh.com
3 (California Bar Number 86361; admitted *pro hac vice*)
Lopez McHugh LLP
100 Bayview Circle, Suite 5600
Newport Beach, California 92660
949-812-5771

5 Mark S. O'Connor (011029)
6 moconnor@beusgilbert.com
Beus Gilbert, PLLC
7 701 N. 44th Street
Phoenix, Arizona 85008
602-429-3019

8 *Co-Lead/Liaison Counsel for Plaintiffs*
9

10 **UNITED STATES DISTRICT COURT**

11 **DISTRICT OF ARIZONA**

12 In Re Bard IVC Filters Products
13 Liability Litigation

14 No. MD-15-02641-PHX-DGC

15 **STIPULATION REGARDING THE
OPINIONS OF DR. MUEHRCKE**

16 (Assigned to the Honorable David G.
Campbell)

17 **(Tinlin Bellwether Case)**

18 The parties, by and through their counsel undersigned, hereby stipulate as follows:
19
20 1. Plaintiffs withdraw the section of Dr. Muehrcke's report titled "Bard Recovery
Specific Opinions" with the exception of part of the last paragraph of this section. The
portion of that paragraph that remains is as follows:
21

22 Bard's sales representative Timothy Fischer testified that, as a
23 sales representative, he was not aware of the internally
24 available statistics at Bard regarding Recovery's failure rates
and incidence of migration, fracture, and death and that, if he
had been aware, he would have wanted to provide that
information to physicians. Deposition of Timothy Fischer,
25 dated Mar. 29, 2017, at 111:15-112:13, 166:4-12, 168:12-
169:1, 216:24-218:8, 224:19-225:3, 281:13-282:10. Likewise,
26 implanting physicians would have wanted to know that
information in order to make informed decisions as to
whether to use the Recovery filter and, if so, for how long
27
28

1 they would have allowed the Recovery filter to remain
2 implanted in their patients. Bard's failure to provide that
3 information to implanting doctors denied them important
4 information in making informed decisions about treatment
5 and obtaining informed consent from patients as to that
6 treatment.

7 This stipulation does not include the last two paragraphs of the report that are not
8 included in the section titled "Bard Recovery Specific Opinions".

9 2. Defendants reserve the right to object to any testimony about the remaining
10 portions of the report at trial, and Plaintiffs stipulate that any such objections are
11 preserved and not waived.

12 3. Defendants withdraw their Motion to Strike Dr. Muehrcke's Untimely Generic
13 Recovery Opinions (Doc. No. 14015) and their Motion and Memorandum in Support of
14 Motion to Exclude Certain Opinions of Dr. Muehrcke (Doc. No. 15080).

15 RESPECTFULLY SUBMITTED this 1st day of March, 2019.

16 BEUS GILBERT, PLLC

17 By: /s/ Mark S. O'Connor

18 Mark S. O'Connor
19 701 N. 44th Street
20 Phoenix, Arizona 85008

21 LOPEZ McHUGH LLP
22 Ramon Rossi Lopez (CA Bar No.
23 86361)
24 (admitted *pro hac vice*)
25 100 Bayview Circle, Suite 5600
26 Newport Beach, California 92660

27 *Co-Lead/Liaison Counsel for Plaintiffs*

16 NELSON MULLINS RILEY &
17 SCARBOROUGH, LLP

18 By: /s/ Kate Helm (with permission)

19 Richard B. North Jr.
20 Georgia Bar No. 545599
21 Matthew B. Lerner
22 Georgia Bar No. 446986
23 201 17th Street, NW, Ste. 1700
24 Atlanta, GA 30363

25 James R. Condo (005867)
26 Amanda Sheridan (027360)
27 SNELL & WILMER L.L.P.
28 One Arizona Center
 400 E. Van Buren
 Phoenix, AZ 85004-2204

29 *Attorneys for Defendants C.R. Bard, Inc.
30 and Bard Peripheral Vascular, Inc.*

1
2 **CERTIFICATE OF SERVICE**
3
4
5

6 I hereby certify that on this 1st day of March 2019, I electronically transmitted the
7 attached document to the Clerk's Office using the CM/ECF System for filing and
8 transmittal of a Notice of Electronic Filing.
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

10 /s/Jessica Gallentine
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28